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7590

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EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/536,518

Applicant(s)

NEWNAM ET AL.

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 6
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-18 are presented for examination.

#### **Claim Rejections - 35 USC § 101**

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

With respect to independent claim 1, the claim are claiming non-statutory subject matter because the claims are not in the "technological" or "useful" arts, and the claims do not affect or define the technology. See *In re Toma*, 197 USPQ 852 (CCPA 1978).

Correction is required

#### **Specification**

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

#### **Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1, line 5, recites "matching contestants" are the contestants the same as the "contestants" claimed in item a and b or are they different contestants. Correction is required.

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Claims 8-16 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims 1,4 and 7. See MPEP § 608.01(n). Accordingly, the claim 8-16 have not been further treated on the merits.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over article titled, "NetPlay: NetPlay Debuts Internet's Premier Multi-Player Entertainment Network; Netplay Game Club Brings People Together to Create Broad-Bases, Online Community" (hereinafter NetPlay).

With respect to claims 1-5, NetPlay teaches an electronic network so that multiple users can compete in a skill-based contest (entire document ). Identifying a set of contestants (see page 1, 4<sup>th</sup> paragraph); grouping the set of contestants into group subsets according to group criteria (see page 2, 3<sup>rd</sup> paragraph); matching contestants within a group subset into subcompetitions (i.e. each age group will be presented with a game according to their ages and knowledge)(page 1, paragraphs 5th and 6th); for each group subcompetition, electronically presenting a competition task (pages 1 and 2); monitoring responses to the competition task from each subcompetition and

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determining a subcompetition outcome status of each contestant in the subcompetition (i.e. players win points which can be redeemed for prizes)(page 2).

With respect to grouping at least some of the contestants according to the subcompetition outcome status and repeating the monitoring and grouping of the contestants outcome status until there is a unique winner. NetPlay teaches in page 1,4th paragraph that the players can become the ultimate star of the contest by playing in tournaments for additional prizes. It is also old and well known in world series games, such as baseball and the like to repeat the monitoring of the outcome of the games and then to re-group the winners into a tournament in order to obtain the world championship winner. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included repeating the steps of monitoring and grouping the winners until there is a unique winners because such a modification would allow in the system of NetPlay for players to compete with others winners.

Claim 6 further recites enforcing a time deadline for the receipt of the response. Official notice is taken that it old and well known in any competition such as spelling-bee and the like to enforce a time deadline for the receipt of the response. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included enforcing a time deadline for the receipt of the responses because such a modification would allow to equally evaluate the members based on the same time frame.

With respect to claims 7, the limitations were previously addressed in the rejections to claims 6 and therefore rejected under similar rationale.

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**Point of Contact**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (703)305-0456. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w Stamber can be reached on (703)305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

R.A.  
September 23, 2002

  
ERIC W. STAMBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600